

Tennessee Attorney General, 19 other States, City Attorney Reach Agreement with Flavored Malt Beverage Maker, Addressing Potentially Dangerous Marketing Practices

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(Note to Editors: Various video interviews and advertisements regarding this case can be obtained through Dropbox at this link:

https://www.dropbox.com/sh/tvme70yg9gyfxbi/VfPhjzK_Gu)

The maker of some nationally-touted flavored malt beverages, including “Four Loko,” has agreed to alter its manufacturing and marketing practices as a result of a multistate agreement, Attorney General Bob Cooper announced today.

The Assurance of Voluntary Compliance Tennessee filed today on behalf of the Tennessee Division of Consumer Affairs, is part of an agreement between 19 other Attorneys General and the City Attorney of San Francisco with Phusion Projects, LLC. Also named in the agreement were the company’s officers Jaisen Freeman, Christopher Hunter, and Jeffrey Wright. At issue were allegations that Phusion marketed and sold flavored malt beverages, including Four Loko, in violation of various consumer protection laws by allegedly promoting Four Loko beverages to underage persons and promoting dangerous and excessive consumption of the products. The agreement also addresses allegations that the company promoted the misuse of its products without disclosing the effects and consequences of drinking alcoholic beverages combined with caffeine. Additionally, the settlement addresses Phusion’s practice of manufacturing, marketing, and selling unsafe and adulterated caffeinated alcoholic beverages prior to the FDA’s November 2010 letter warning Phusion that caffeinated Four Loko is an unsafe product.

“It is extremely important that manufacturers of alcoholic beverages market and promote their products in a safe and responsible way,” Attorney General Cooper said. “We hope this agreement will deter other companies from promoting potentially dangerous alcohol products in an unfair or deceptive manner.”

“We encourage Tennesseans who believe that a business operating in the State is engaging in false or deceptive advertising or marketing to contact the Division of Consumer Affairs,” Deputy Commissioner and Acting Consumer Affairs Director Steve Majchrzak said. “In the interest of public welfare, it is imperative that consumers are armed with enough knowledge about a product to make an educated decision. Deceptive marketing negatively affects an individual’s ability to do so, and in some cases can cause harm to our communities.”

As part of the settlement, Phusion agreed to not manufacture caffeinated, alcoholic beverages and to reform how it markets and promotes its non-caffeinated flavored malt beverages, including Four Loko. Among other marketing restrictions, Phusion has agreed not to promote binge drinking, drinking while driving, consuming an alcoholic beverage by means of a rapid ingestion technique or device, or underage drinking. Phusion has further agreed not to promote to consumers, wholesalers, distributors, or marketers the mixing of its flavored malt beverages with products containing caffeine. In addition, Phusion will no longer sell, offer for sale, distribute or promote alcoholic products to underage persons or hire underage persons, or actors under the age of 25 or who appear to be under 21, to promote alcohol products. Furthermore, the company is prohibited from using any initials, logos or mascots of any school, college, university, or student organization on its products or advertising its products without full disclosure of its contents to anyone.

Under the terms of the settlement, Phusion will make a payment of \$23,047.62 to the State of Tennessee.